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California Regional Water Quality Control Board San Diego Region

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<http://www.waterboards.ca.gov/sandiego>

July 31, 2007

CERTIFIED-RETURN RECEIPT REQUESTED
7005 1160 0000 4217 5621

In reply refer to:
CA:18-2001091.02:Rstewart

Mr. Justin Ashby
Ashby USA, LLC
470 East Harrison Street
Corona, California 92879-1314

Dear Mr. Ashby:

**ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R9-2007-0064 FOR
VIOLATIONS OF WATER QUALITY CERTIFICATION 01C-091**

Enclosed is Complaint No. R9-2007-0064 for Administrative Civil Liability in the amount of \$546,250 for violations of Water Quality Certification 01C-091 at the Roripaugh Ranch residential development located in Temecula, California.

If Ashby USA, LLC intends to waive its right to a hearing before the California Regional Water Quality Control Board, San Diego Region (Regional Board), you or an authorized agent must sign and return the enclosed waiver form with a cashier's check for the amount of the civil liability indicated in the Complaint by **Friday August 24, 2007**. Waiver of the hearing constitutes admission of the validity of the allegation of violations in the Complaint and acceptance of the assessment of civil liability in the amount of \$546,250 as set forth in the Complaint. In addition, Ashby USA, LLC must publish the enclosed public notice in a newspaper circulated in the Temecula area no later than **Friday, August 24, 2007**. Verification that the notice has been published must be submitted to the Regional Board no later than **Friday August 31, 2007**.

If Ashby USA, LLC does not elect to waive its right to a public hearing or verification that the newspaper notification has not been received by **Friday August 31, 2007** a hearing is tentatively scheduled to be held at the Regional Board meeting on October 10, 2007. In order for the Regional Board to fully consider any argument on your behalf, you should submit twenty copies of all documents, including exhibits you intend to provide the Regional Board by 5:00 p.m. **Friday September 14, 2007**. Copies of the material submitted will be forwarded to the Regional Board. An agenda for the hearing will be mailed to you not less than ten days before the hearing date.

California Environmental Protection Agency

Mr. Justin Ashby
Ashby USA, LLC

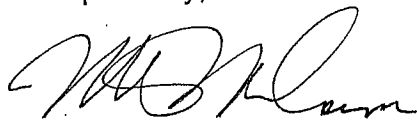
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July 31, 2007

The heading portion of this letter includes a Regional Board code number noted after "in reply refer to:" In order to assist us in the processing of your correspondence please include this code number in the heading or subject line portion of all correspondence and reports to the Regional Board pertaining to this matter.

Please contact Rebecca Stewart at (858) 467-2966 or via e-mail at Rstewart@waterboards.ca.gov if you have any questions concerning this matter.

Respectfully,

 By Direction
JOHN H. ROBERTUS
Executive Officer

MPM:mja:rls

Enclosures

cc: Aldo Licitra, City of Temecula, P.O. Box 9033, Temecula, CA 92589-9033 (with enclosures)

Laurie Monnarres, U.S. Army Corps of Engineers, Regulatory Branch, 16885 West Bernardo Drive, Suite 300A, San Diego, CA 92127 (with enclosures)

Jeff Brandt, California Department of Fish and Game, 3602 Inland Empire Blvd., Suite C-220, Ontario, CA 91764 (with enclosures)

Bill Orme, State Water Resources Control Board, Division of Water Quality, P.O. Box 100, Sacramento, CA 95812 (with enclosures)

David W. Smith, Wetlands Regulatory Office, U.S. EPA, Region 9, 75 Hawthorne Street, Mail Code WTR-8, San Francisco, CA 94105 (with enclosures)

Elizabeth Goldmann, U.S. EPA, Region 9, 75 Hawthorne Street, Mail Code WTR-4, San Francisco, CA 94105 (with enclosures)

Kritsin Schwall, Regional Board, Northern Watershed Protection Unit (with enclosures)

James Smith, Regional Board, Northern Watershed Protection Unit (with enclosures)

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION**

IN THE MATTER OF:

ASHBY USA, LLC
RORIPAUGH RANCH
470 E. Harrison Street
Corona, California 92879-1314
Attn: Richard Ashby

**COMPLAINT NO. R9-2007-0064
FOR
ADMINISTRATIVE CIVIL LIABILITY**

July 31, 2007

ASHBY USA, LLC IS HEREBY GIVEN NOTICE THAT:

1. Ashby USA, LLC operates an active construction site on 804 acres of land located near Murietta Hot Springs Road and Butterfield Stage Road in Temecula, Riverside County. This facility, referred to as Roripaugh Ranch (WDID 933S320657), continues to be regulated under the following: *"State Water Resources Control Board (SWRCB) Order No. 99-08-DWQ, National Pollutant Discharge Elimination System (NPDES) General Permit No. CAS000002, Waste Discharge Requirements (WDRS) for Discharges of Storm Water Runoff Associated with Construction Activity"* (Order No. 99-08-DWQ). In addition, Roripaugh Ranch is also regulated under section 401 Water Quality Certification No. 01C-091.

ALLEGATIONS

1. Between August 29, 2006 and March 19, 2007, for a total of 202 days, Ashby USA, LLC disturbed Long Valley Wash from its natural condition in violation of Condition No. 10 of Water Quality Certification 01C-091.
2. Ashby USA, LLC failed to submit a mitigation plan by December 20, 2005 as required by Condition No. 3 of Minor Modification No. 2 to Water Quality Certification 01C-091. This is an ongoing violation that has occurred for 569 days as of July 12, 2007.
3. Ashby USA, LLC failed to implement mitigation for impacts to Santa Gertrudis Creek and Long Valley Wash by October 20, 2006 as required by Condition No. 2 of Minor Modification No. 2 to Water Quality Certification 01C-091. This is an ongoing violation that has occurred for 265 days as of July 12, 2007.
4. Ashby USA, LLC failed to design a detention basin implementing post-construction best management practices from August 29, 2006 to November 30, 2006 for a total of 94 days, as required by Condition No. 16 of Water Quality Certification 01C-091.

July 31, 2007

RECOMMENDED CIVIL LIABILITY

5. Based on consideration of the factors listed in section 13385(e) of the California Water Code, it is recommended the Regional Board impose civil liability on Ashby USA, LLC in the amount of \$546,250 based on the following:

- a. \$110,000 for disturbances to Long Valley Wash that occurred between August 29, 2006 and March 19, 2007 in violation of Condition No. 10 of Water Quality Certification No. 01C-091.

Pursuant to CWC section 13385, the maximum liability for this violation is \$940,000 for 200 days of violation.

- b. \$56,900 for failing to submit a Mitigation Plan by the due date of December 20, 2005.

Pursuant to CWC section 13385, the maximum liability for this violation is \$5,690,000 for 569 days of violation.

- c. \$331,250 for failing to construct mitigation by October 20, 2006.

Pursuant to CWC section 13385, the maximum liability for this violation is \$2,650,000 for 265 days of violation.

- d. \$47,000 for the inadequately designed detention basin near Pourroy Road.

Pursuant to CWC section 13385, the maximum liability for this violation is \$940,000 for 94 days of violation.

Dated this 31st day of July 2007



JOHN H. ROBERTUS
Executive Officer

By Direction